

Exhibit A

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1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 In Re: TERRORIST ATTACKS ON
3 SEPTEMBER 11, 2001

03 MDL 1570 (GBD)

4 -----x

New York, N.Y.
November 16, 2011
2:30 p.m.

7 Before:

8 HON. FRANK MAAS

Magistrate Judge

11 APPEARANCES

12 KREINDLER & KREINDLER LLP
13 Attorneys for Ashton Plaintiffs
13 BY: JAMES KREINDLER
14 ANDREW J. MALONEY, III

15 COZEN O'CONNOR
16 Attorneys for Plaintiff Federal Insurance
16 BY: SEAN CARTER
17 J. SCOTT TARBUTTON

18 MOTLEY RICE LLC
19 Attorneys for Burnett Plaintiffs
19 BY: ROBERT T. HAEFELE

21 ANDERSON KILL & OLICK, P.C.
21 Attorneys for O'Neill Plaintiffs
22 BY: JERRY S. GOLDMAN

23 BERNABEI & WACHTEL PLLC
24 Attorneys for Defendants Al Haramain Islamic Foundation
24 and Perouz Seda Ghaty
25 BY: ALAN R. KABAT

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1 prohibit the banks from sharing this information. And the
2 record seems to establish that in that one of the banks Mr.
3 Jalaidan says he can't get records from is Faisal Finance,
4 which gave him records three years after his designation.

5 What we are really looking for is some record to
6 establish that he has undertaken those efforts.

7 THE COURT: He's produced records. Does that
8 necessarily mean that he obtained them from the bank rather
9 than from his own files?

10 MR. CARTER: He is producing a 2005 account statement
11 from a bank that froze his account in 2002.

12 THE COURT: If he had that in his back pocket, then he
13 didn't need to go to the bank.

14 MR. CARTER: What I'm saying is he is taking the
15 position that from the date of the freezing of his accounts,
16 all of his banks have uniformly refused to deal with him and to
17 provide him bank statements, yet he has a bank statement from
18 three years after that point in time.

19 THE COURT: I see your point. I guess, Mr. McMahon,
20 it comes down to the same thing I said with respect to your
21 other two clients, namely, that there has to be a full-court
22 press. And, as Mr. Carter indicated and I've said before, it
23 has to be documented. If you're not sufficiently able to
24 document a vigorous effort to obtain those documents, it may be
25 that sanctions are imposed.

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1 MR. McMAHON: Your Honor, if I could ask Mr. Carter
2 this. What precludes the plaintiffs' lawyers from issuing
3 subpoenas to these banks and demanding the Jalaidan records?
4 Then they might have an excuse to produce the records, that
5 they are not dealing with global terrorists, they are producing
6 records pursuant to a valid subpoena.

7 THE COURT: I'll let Mr. Carter answer that, but my
8 answer to it is they have the right to ask the defendant
9 produce that which is in his control. You're saying it's not
10 within his control, but I'm not sure this has adequately been
11 established.

12 MR. McMAHON: They have a track record, your Honor, of
13 seeking extrajudicial assistance throughout the course of the
14 litigation. I'm just curious if they even tried one of these
15 things to see what the response was.

16 MR. CARTER: Your Honor, they are beyond the subpoena
17 power, so it's not a simple matter of issuing a subpoena. I
18 think what we are running into here is a problem that we have
19 run into consistently, which is an effort to reformulate the
20 discovery process in a manner that deserves the defendants'
21 interests but bears no relationship to the rules. We have seen
22 it with the Muslim World League and the IIRO, and we are seeing
23 it with Mr. Jalaidan.

24 If there is a record that he has undertaken good faith
25 and diligent efforts to obtain these records and has been

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